IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1935 OF 2003

Ansari Muhammad Salim Muhammad Usman...Petitioner

Versus

State of Maharashtra & Ors. ...Respondents

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Mr.K.S.Patil for Petitioner.

Mr.V.B.Konde-Deshmukh, A.P.P. for Respondents.

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CORAM: A.M.KHANWILKAR, J.

JANUARY 14, 2005.

P.C.

1. Heard Counsel for the parties.

2. The Petitioner had applied for licence for acquisition and possession of firearms and ammunitions. The said licence was processed by the Collector, Nasik, but came to be rejected on 26th July 2002 relying on the recommendation made by the Police Inspector (Gramin). The original record of the file was produced.

3. It is seen that the Police Officer (Gramin) in his report, has observed that the Petitioner has no prior experience of handling or using of any firearm. It has been noted that the Petitioner has not undergone any training for handling and using such firearms. The Collector, accordingly, rejected the Application, against which, the Petitioner preferred statutory appeal before the Divisional Commissioner, Nasik Division, Nasik, which was also rejected on 28th January 2003, upholding the view taken by the Collector.

4. According to the Petitioner, the basis on which the licence has been declined to the Petitioner is untenable. Relying on Section 3 of the Arms Act, 1959, Petitioner would contend that the Petitioner will not be able to undertake training to handle or operate any firearms in absence of any licence. It is further submitted that there is no express provision requiring the Applicant to first undergo training to operate any firearms, and if it is so, the ground on which the Application has been rejected, will have to be held

as extraneous.

5. On the other hand, Counsel for the Respondents, not only relied on the Scheme of Chapter III of the Arms Act, but also on the Manual published under the Arms Act. Para 100 of the said Manual provides for procedure for enquiry into applications for grant of arms licences. The Authority is obliged to ascertain whether the Applicant possesses sufficient experience or ability to handle and keep the weapon safe from misuse, amongst the other requirements.

6. There is substance in the argument canvassed on behalf of the Respondents which is supported by the aforesaid provisions. Viewed in this perspective, it is not possible to accept the argument canvassed on behalf of the Petitioner that the ground on which his Application has been rejected, is extraneous. It is common knowledge that training institutions are functioning in different parts of India, in particular, in Maharashtra. In Bombay, training is imparted at Maharashtra Rifle Association, Worli, so also, in

the district in which, the Petitioner is residing, Bhosla Military School at Nasik has such facility. Similar facility is available in Pune at National Defence Academy.

7. It will be open to the Petitioner to undergo such training as is required to possess necessary ability to handle the firearms and ammunitions. Thereafter, it will be open to the Petitioner to apply for issuance of licence afresh, which will be considered on its own merits, in accordance with law.

8. Petition disposed of on the above terms.

A.M.KHANWILKAR, J.